

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION

Travis Lee Hamrick,)	Case No. 7:20-cv-00687-DCC
)	
Petitioner,)	
)	
v.)	ORDER
)	
Seventh Judicial Circuit of South)	
Carolina, Spartanburg County General)	
Sessions Court, County of Spartanburg,)	
)	
Respondents.)	
_____)	

Petitioner, a state pretrial detainee currently on home incarceration, seeks a writ of mandamus. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.), this matter was referred to United States Magistrate Judge Kevin F. McDonald for pre-trial proceedings and a Report and Recommendation ("Report"). On March 12, 2020, the Magistrate Judge issued a Report recommending that this action be dismissed without prejudice and without issuance and service of process. ECF No. 13. The Magistrate Judge advised Petitioner of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Petitioner has filed no objections, and the time to do so has passed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The

Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

After considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the Report’s recommendation; accordingly, this action is **DISMISSED** without prejudice and without issuance and service of process.¹

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.
United States District Judge

May 13, 2020
Spartanburg, South Carolina

¹ The Court declines to automatically give Petitioner leave to amend because he cannot cure the identified defects by amending his petition. See *Goode v. Cent. Va. Legal Aid Soc’y*, 807 F.3d 619, 623 (4th Cir. 2015). As noted in more detail in the Report, this Court lacks jurisdiction to compel action by a state court. Additionally, this action should be dismissed pursuant to *Younger v. Harris*, 401 U.S. 37 (1971), because Petitioner requests that this court interfere or enjoin his pending criminal charges in the Spartanburg County Court of General Sessions.

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.